

## **REMARKS**

The Examiner's Office Action of December 13, 2004, has been carefully reviewed. Applicant has canceled all pending claims other than independent claims 4 and 8. Of these two remaining claims, claim 8 has been indicated as being in a condition for allowance. Thus, only the Examiner's rejection of claim 4 is addressed.

The Examiner has continued the rejection claims 1-4 and 6 under 35 U.S.C. 112, 1<sup>st</sup> paragraph, "as containing subject matter which was not described in the specification." Specifically, the Examiner asserts that Applicant's replacement of "valuable" with "select" did not overcome the Examiner's previous rejection under 35 U.S.C. 112 1<sup>st</sup> paragraph. Claims 1-4 and 6 were similarly rejected under 35 U.S.C. 112, 2<sup>nd</sup> paragraph as being indefinite "for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention" for including the term "select." These rejections are deemed moot insomuch as all pending claims referencing "select" (claims 1-3 and 6) have been canceled.

The Examiner also based the rejection under 35 U.S.C. 112, 1<sup>st</sup> paragraph on the presence of the terms "organic and non-organic waste" and the reference to the method being completed within a "24 hour period." Both these terms are found in claim 4.

In response, the Applicant refers the Examiner to the specification on page 8, line 15-21 and page 9, line 1-8 for examples of organic and inorganic materials. Applicant believes this reference within the specification offers adequate support for the proposed claim language. Furthermore, Applicant notes that the term "organic" is defined in Webster's II New Riverside University Dictionary (1984) as "Of, relating to, or derived from living organisms." Thus, the terms "organic" and "non-organic" would also be readily understood by artisans of ordinary skill.

Applicant has amended claim 4 to specify that the bioconversion of all waste streams can be completed within a 24-hour period. This amendment was made to bring claim 4 into conformity with the description at page 14 of the specification. Specifically, both claim 4 and the specification note that the bioconversion of "whole waste streams" can be completed within a 24-hour period. Applicant believes this amendment is sufficient to overcome the Examiner's rejection under 35 U.S.C. 112 1<sup>st</sup> paragraph.

Finally, the Examiner rejected claims 4, 6-7 under 35 U.S.C. 103 (a) as being unpatentable over Fisk (U.S. Patent 3,847,803) in view of Schmidt (U.S. Patent 6,197,081) and JP 54067073 and BE 879840. This basis of rejection is not addressed by the Applicant insomuch as all these claims have been removed from consideration. Namely, claim 4 has been amended to include the subject matter of claim 5 and claims 6 and 7 have been canceled in their entirety. Applicant notes

that claim 5 was previously indicated as being allowable by the Examiner in the Office Action dated March 23, 2004.

In sum, Applicant has amended all rejected claims and pointed out the support in the specification for such amendments in an effort to overcome the Examiner's rejections under 35 U.S.C. 112, 1<sup>st</sup> paragraph. Any claims rejected under 35 U.S.C. § 103 have been withdrawn. In light of the claim amendments made hereinabove, favorable consideration and a Notice of Allowance are respectfully requested.

Respectfully submitted,

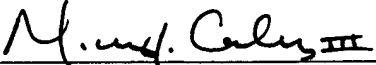


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CERTIFICATE OF MAILING

I HEREBY CERTIFY that the foregoing was placed in an envelope and mailed via express mail, postage paid, to the U.S. Patent and Trademark Office, Customer Service Window, Randolph Building, 401 Dulany Street, Mail Stop AF, Alexandria, VA 22314 on this the 13th day of May, 2005.

The Commissioner is hereby authorized to charge any additional fees which may be required at any time during the prosecution of this application without specific authorization, or credit any overpayment, to Deposit Account Number 50-1667.

  
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Michael J. Colitz, III

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